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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/657,934	09/09/2003	Barry Wixey	TN-2347B	1594

7590 10/10/2007
Adan Ayala, Esq.
Black & Decker Inc.
701 E. Joppa Road, TW-199
Towson, MD 21286

EXAMINER

SELF, SHELLEY M

ART UNIT	PAPER NUMBER
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3725

MAIL DATE	DELIVERY MODE
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10/10/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/657,934

Applicant(s)

WIXEY ET AL.

Examiner

Shelley Self

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 August 2007.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 4-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,2,4 and 10-20 is/are allowed.
- 6) ☒ Claim(s) 5-9 and 21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 June 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on August 6, 2007 has been entered.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5-9 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Welsh et al. (5,771,949) in view of Liao (5,829,499) and Stutzman (753,528). With regard to claims 5 and 21, Welsh discloses a power planer for planing a top surface of a workpiece comprising: a base assembly (20); a carriage assembly (26) disposed above the base assembly, the carriage assembly comprising a cutter head assembly (52), the carriage assembly being vertically movable to change distance between the base assembly and the carriage assembly; a hand crank (96) attached to the carriage assembly for changing the distance between the base assembly (col. 6, lines 36-43) and the carriage assembly; a material removal gauge (370) disposed on the

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carriage assembly; a switch (72) disposed on the carriage assembly; and a height scale (106) disposed on the base assembly. Welsh also discloses the cutterhead having a main body. Welsh is silent to three knives disposed on the main body. Further Welsh does not disclose the hand crank vertically movable with the carriage.

Liao teaches in a closely related art, a power planer (fig. 1) for planing a top surface of a workpiece including a base (20), carriage assembly (30) including a cutter head, a hand crank (50; fig. 4) attached to the carriage assembly and vertically movable with the carriage assembly (col. 3, lines 11-35; fig. 4). Liao teaches the hand crank vertically movable with the carriage assembly for ease of adjusting the height or vertical distance of the carriage assembly relative to the base. Because the references are from a closely related art and deal with a similar problem (i.e. material removal from a workpiece via a vertically adjustable cutterhead) it would have been obvious at the time of the invention to one having ordinary skill in the art to construct Welsh's hand crank to be vertically movable with the carriage assembly so as to efficiently adjust the vertical position of the carriage assembly and cutterhead relative to the base assembly as taught by Liao.

Stutzman teaches in a closely relate art a main body of a cutterhead head for use with a planar machine. Stutzman explicitly teaches the main body having a substantially triangular cross-section wherein a knife is attached to each side of the body; therefore three knives (pg. 2, lines 76-78) and wherein the main body includes at least one scoop (15; figs. 1, 5-7). Stutzman teaches this construction so as to efficiently plane/remove material from a workpiece. Because the references are from a similar art, it would have been obvious to the skilled artisan at the time of the invention to construct Welsh or replace, Welsh's circular cross-section main body with a

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main body having a substantially triangular cross-section so as to efficiently plane or remove material from a workpiece as taught by Stutzman.

As to the knives being locked in a horizontal position (clm. 9), Welsh discloses a locking mechanism for locking the cutterhead and carriage at any desired position, therefore the ability to so lock the knife/blade at a horizontal position.

With regard to claims 6 and 7, Welsh discloses at least six screws (60).

With regard to claim 8, both Welsh and Liao disclose a cutterhead lock mechanism (Welsh 172, 210, 240, 292, 310; Liao figs. 6, 7).

Allowable Subject Matter

Claims 1, 2, 4, and 10-20 are allowed.

Response to Arguments

Applicant's arguments, filed August 6, 2007 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, regarding claims 5-9 and 21, a new ground(s) of rejection is made in view of Stutzman.


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shelley Self whose telephone number is 571-272-4524. The examiner can normally be reached on 8:30 - 5:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on 571-272-4419. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



/Shelley Self/
Primary Examiner
Art Unit 3725

October 2, 2007

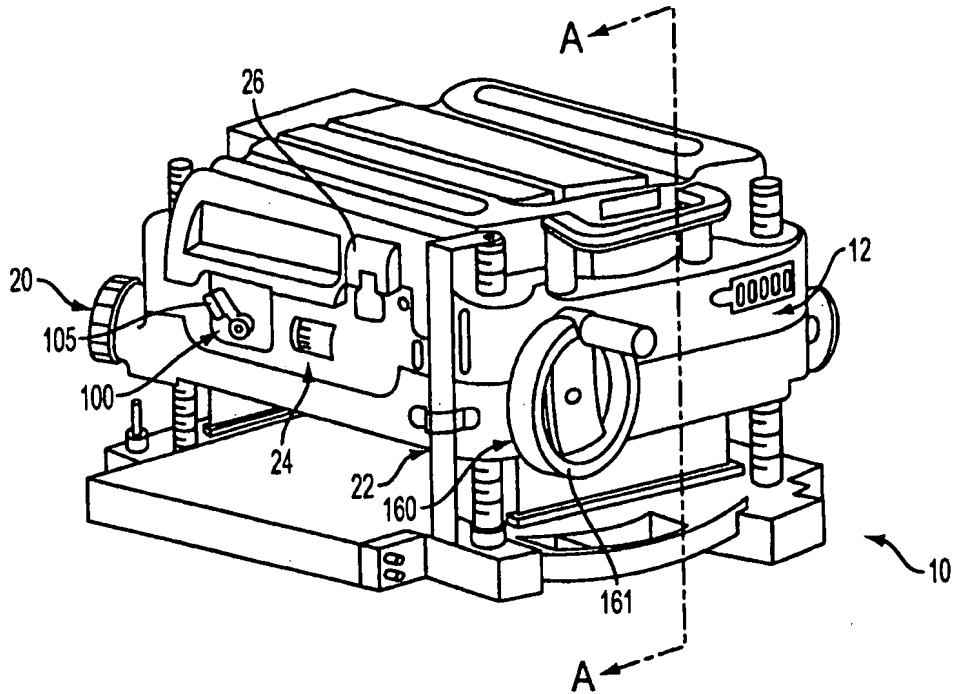


FIG. 1

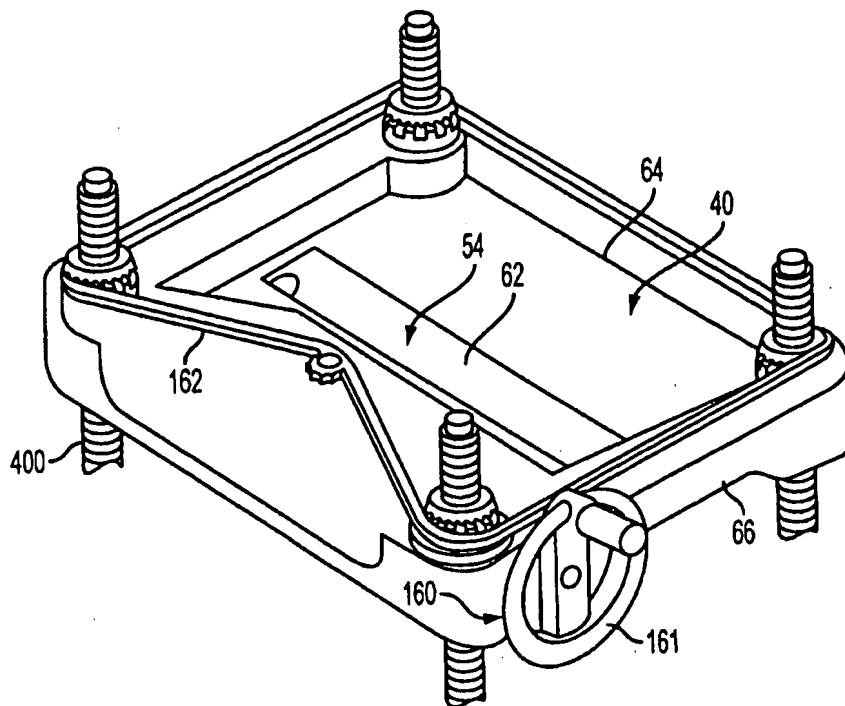


FIG. 2

*Approved
Set*